



## TEXAS DEPARTMENT OF INSURANCE

### Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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## MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

### GENERAL INFORMATION

**Requestor Name**

John Davis, D.C.

**Respondent Name**

Sentry Insurance, A Mutual Company

**MFDR Tracking Number**

M4-17-0353-01

**Carrier's Austin Representative**

Box Number 19

**MFDR Date Received**

October 7, 2016

### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "Dr Certification Is and Was Valid"

**Amount in Dispute:** \$350.00

### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "Please see the EOB(s) and the reduction rationale(s) stated therein."

**Response Submitted by:** Flahive, Ogden & Latson

### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
November 19, 2015	Designated Doctor Examination	\$350.00	\$350.00

### FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

**Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §127.100 sets out the procedures for certifying designated doctors.
3. 28 Texas Administrative Code §130.1 sets out the procedures for certifying maximum medical improvement and impairment rating.
4. 28 Texas Administrative Code §134.204 sets out the fee guidelines for division-specific services.
5. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
  - 304 – MMI or IR certification is not valid for this date of service.
  - B7 – This provider was not certified/eligible to be paid for this procedure/service on this date of service.

## Issues

1. Was Dr. John Davis certified to perform the service in question?
2. Was Dr. John Davis' certification of MMI valid for the date of service in question?
3. What is the maximum allowable reimbursement for the service in question?
4. Is the requestor entitled to additional reimbursement?

## Findings

1. Dr. John Davis is seeking reimbursement for an examination to determine maximum medical improvement of the injured employee performed on November 19, 2015. Sentry Insurance denied payment for the requested service, in part, with claim adjustment code B7 – "THIS PROVIDER WAS NOT CERTIFIED/ELIGIBLE TO BE PAID FOR THIS PROCEDURE/SERVICE ON THIS DATE OF SERVICE." 28 Texas Administrative Code §130.1(a) states, in relevant part:
  - (1) Only an authorized doctor may certify maximum medical improvement (MMI), determine whether there is permanent impairment, and assign an impairment rating if there is permanent impairment.
    - (A) Doctors serving in the following roles may be authorized as provided in subsection (a)(1)(B) of this section. ...
      - (ii) a designated doctor ...
    - (B) ... On or after September 1, 2003, a doctor serving in one of the roles described in subsection (a)(1)(A) of this section is authorized as follows:
      - (i) a doctor whom the division has certified to assign impairment ratings or otherwise given specific permission by exception to, is authorized to determine whether an injured employee has permanent impairment, assign an impairment rating, and certify MMI; and
      - (ii) a doctor whom the division has not certified to assign impairment ratings or otherwise given specific permission by exception to is only authorized to determine whether an injured employee has permanent impairment and, in the event that the injured employee has no impairment, certify MMI.

Review of available information finds that Dr. Davis was certified by the division as a designated doctor in accordance with 28 Texas Administrative Code §127.100 on the date of service. The division also finds that Dr. Davis was certified by the division to assign an impairment rating and certify maximum medical improvement on the date of service. The denial by Sentry Insurance for this reason is not supported.

2. Sentry Insurance also denied payment for the requested service, in part, with claim adjustment code 304 – "MMI OR IR CERTIFICATION IS NOT VALID FOR THIS DATE OF SERVICE." Review of the submitted documentation finds that Dr. Davis found that the injured employee was not at maximum medical improvement and therefore did not assign an impairment rating. The division finds that the denial by Sentry Insurance for this reason is not supported.
3. Per 28 Texas Administrative Code §134.204(j)(2)(A),

If the examining doctor, other than the treating doctor, determines MMI has not been reached, the MMI evaluation portion of the examination shall be billed and reimbursed in accordance with paragraph (3) of this subsection. Modifier "NM" shall be added.

Paragraph (3) states, "The following applies for billing and reimbursement of an MMI evaluation... (C) An examining doctor, other than the treating doctor, shall bill using CPT Code 99456. Reimbursement shall be \$350." The submitted documentation supports that the requestor performed an evaluation of MMI and found that the injured employee was not at MMI. Therefore, the correct MAR for this examination is \$350.00.
4. The total MAR for the service in dispute is \$350.00. The insurance carrier paid \$0.00. A reimbursement of \$350.00 is recommended.

### Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$350.00.

### **ORDER**

Based on the submitted information, pursuant to Texas Labor Code Sec. 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services in dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$350.00, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

### Authorized Signature

_____	Laurie Garnes	November 15, 2016
Signature	Medical Fee Dispute Resolution Officer	Date

### **YOUR RIGHT TO APPEAL**

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**